

DOCKETED,

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

MIDWAY MANUFACTURING COMPANY:

Deposition of

vs. :

William T. Rusch South

THE MAGNAVOX COMPANY :

Seventh Day

and :

74 Civ 1657 CBM

SANDERS ASSOCIATES, INC. :

Inc., Allritten

74 Civ 1657 CBM, Wright,
15th Street, 15th
Floor, Los Angeles, California

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

THE MAGNAVOX COMPANY, et al : Consolidated Actions

vs. :

74 C 1030 -

74 C 2510 -

BALLY MANUFACTURING
CORPORATION , et al

75 C 3153 and

75 C 3933 sq., Daniel

75 C 3933 sq., Daniel
Bally, Inc., 200 South, Nashua,

Continued deposition taken

pursuant to subpoena and notice at the Sanders Associates,
Inc.; Headquarters, Spit Brook Road; Nashua, New Hampshire;
Thursday, March 11, 1976; commencing at nine-thirty in
the forenoon.

FILED

OCT - 8 1976

ERNEST W. NOLIN & ASSOCIATES

General Stenographic Reporters

369 ELGIN AVE., MANCHESTER, N. H. 03104

TELEPHONE: 623-6906

Mr. J. STAFFORD COOPER, CLERK
LAW OFFICES OF ERNEST W. NOLIN & ASSOCIATES

ORIGINAL

were you able to check PRESENT: Mr. Etlinger and
Mr. Seligman to determine For Midway Manufacturing Company,
Bally Manufacturing Corporation
and Empire:

application for the 2 Donald L. Welsh, Esq., 135 South
LaSalle Street, Chicago, Illinois
Mr. Furuk on May 21, 1969?

For Atari, Inc.:

RE: WILLIAMS: I did not check
Flehu, Hohbach, Test, Albritton &
with Mr. Etlinger, but Herbert, by Edward S. Wright,
Esq., 160 Sansome Street, 15th
and we are willing to Floor, San Francisco, California

For Sanders Associates, Inc.,
and Magnavox Company:

I would like to ask the reporter now in New York this
copy of another oath Washington Street, Chicago,
Illinois.

May 15, 1969, as Exhibit 51; and this other copy

For Sanders Associates:

of an oath executed by James T. Williams, Esq., 77 West
Louis Etlinger, Esq., and
Richard I. Seligman, Esq., Daniel
Webster Highway, South, Nashua,
between Mr. Williams New Hampshire

Stenotype Reporter:

RE: WILLIAMS, Exhibits 51 and

Ronald J. Hayward

RE: WILLIAMS, Exhibits 51 and

WILLIAM T. RUSCH (action.)

called as a witness, having been previously sworn, was
cross-examined by Mr. Welsh, I have and was Exhibit 12 which is a
further examined and continued his testimony as follows:

(Interrogatories by Mr. Welsh.)

William G. Davis noted as one of the inventors along

MR. WELSH: Mr. Williams,

with Mr. Etlinger and Mr. Seligman in that patent?

A. were you able to check with Mr. Etlinger and
Q. Mr. Seligman to determine whether you are willing
to stipulate that the oath which accompanied the application for the 284 patent was executed by Mr. Rusch on May 21, 1969?

MR. WILLIAMS: I did not check with Mr. Etlinger, but I did check with Mr. Seligman and we are willing to so stipulate. I would say whatever is described.

MR. WELSH: Thank you.

Q. I would like to ask the reporter now to mark this copy off another oath executed by Mr. Rusch dated May 15, 1969, as Exhibit 51; and this other copy of an oath executed by Mr. Rusch on April 24, 1969, as Exhibit 52 in accordance with the agreement

between Mr. Williams and me yesterday, else that the three of you did together that was new over what you had done? (Whereupon, Exhibits 51 and

52 were marked for

A. I believe many of the games were adapted to the identification.) square spot system, or rather the square spot system

Q. Mr. Rusch, I hand you now Exhibit 12 which is a copy of U. S. Patent No. 3,659,285; are you the William R. Rusch named as one of the inventors along with Mr. Baer and Mr. Harrison in that patent?

next page

A. Yes. is written in the patent, but I can't remember

Q. What did the three of you develop that was new
with respect to TV games that you had not developed
by yourself so far as the subject matter of that

Q. patent is concerned? her recollection either general
or specific as to whom MR. WILLIAMS: If you recall,

Mr. Rusch.

A. No.

THE WITNESS: I would say

Q. whatever is described in this patent, will bound

Q. Do you have any personal recollection of what the

A. three of you did that was new or what you had done
by yourself? never or different circuits were necessary

A. I think we may have added some more games. I can't at
recall exactly which ones are spot, I haven't read

Q. Do you have any recollection of anything else that
the three of you did together that was new over what
you had done? felt that that patent was sort of a

A. I believe many of the games were adapted to the
square spot system, or rather the square spot system
was adapted to the games is perhaps what I want

Q. to say. May if that will help refresh your

Q. Anything else?

A. I don't recall specifically. As I say, I will go on

punct. wfd 5/26/76

what is written in the patent, but I can't remember where these different phases all fit into each other. There may have been improvements on the rifle game that were made, accurate.

Q. Do you have any further recollection either general or specific as to what the three of you did that was new? that had not been done by you alone?

A. No. (At this point MR. WILLIAMS: So the record

Q. Did the three of you improve on your wall bounce feature? as I saw him do it.

A. I don't know. It might have been refined somewhat and perhaps newer or different circuits were necessary to make it compatible with the square spot generating system. I keep saying square spot, I haven't read this patent in many years and I don't even know if we were covering round dot or square spots in it. I sort of felt that that patent was sort of a conglomerate of all our newer ideas, refinements, and joint effort. Is it all right if I look through this patent?haps or something like that in Figure 11B

Q. You surely may if that will help refresh your ing memory. at in Figure 10B. Then a collection of

A. I would like to say that I would rather stand on the

Printed 2025/26/26

things that were in writing years ago, especially things that I signed, rather than go on my memory after nine years because I realize I am under oath now, too, and I want to be accurate.

- Q. Having reviewed the 285 patent briefly, do you recall anything else that the three of you developed jointly that had not been done by you alone?
- Q. Images, was it not? MR. WILLIAMS: So the record
- A. is clear, I believe Mr. Rusch reviewed only the drawings as I saw him do it.
- Q. the ones you pointed THE WITNESS: Most of them, just the drawings? Would you read that again?
- A. Yes and no. As I say, for instance, in 13B, that (Whereupon, the previous black thing that looks like it may have been question was read back intended to have been a hand ball net. The rectangle by the reporter.) labeled 134, if that had been generated with the slice diode system, THE WITNESS: In one of the drawings I did see some, what looked like, generated bars and things like that. It looks like a ping pong net perhaps or something like that in Figure 11B. And it was probably a hand ball net or something like that in Figure 13B. Then a collection of squares and rectangles in Figure 20C. I think the

Punct. wR 5/26/76/76
+ spelling

- A. 284 patent may have covered some shapes like that, but not exactly like that in that these have rather square edges and the method of the 284, being different, tended to give more rounded edges to figures. So, from that standpoint, these may be new. not sure about that one since it goes across
- Q. With the method of 284 it was possible to generate images, was it not?
- A. Yes. 284 method so that it extended the full height
- Q. And was it not possible to generate bars such as the ones you pointed to in Figure 13B and Figure 11B of the 285 patent? ^{Would} the screen, but I can't remember
- A. Yes and no. As I say, for instance, in 13B, that black thing that looks like it may have been to intended to have been a hand ball net. The rectangle labeled 134, if that had been generated with the slice diode system, the upper two corners of that rectangle would probably have been more rounded ^{indented} nature, if you will; and, as I say, I don't really
- Q. Except for that, however, it was possible, was it not, with the method of the 284 patent to generate a bar image similar in appearance to that of the bar 134 in Figure 13B? shown parallel in Figure 6 of

Punct. w/ P 5/26/76
+ spelling

- A. With the restrictions I have noted, yes, in that a bar would just be an elongated spot and we were able to generate spots.
- Q. And is the same thing not true of the bar in Figure 11B? How long the spot is either. And
- A. I am not sure about that one since it goes across the whole length of the display screen.
- Q. You were not able to elongate the spot image with the 284 method so that it extended the full height of the screen? That Figure 6. It is ~~not~~ ^{would} that
- A. I was able to elongate it so it ~~wouldn't~~ extend the full length of the screen, but I can't remember whether it was possible to keep the sides nice and parallel like they are in this. If you want to look through the 284 patent, I believe it showed some typical shapes that one might generate. It does show in Figure 6 of the 284 patent, I don't know what you would call it, a rectangle with rounded ends, if you will; and, as I say, I don't really recall whether those two sides could be kept the parallel if one extended it the whole length of the screen or not. If you wish to take a few minutes
- Q. At least they are shown parallel in Figure 6 of,

Misquote. wP 5/26/76

the 284 patent, are they not?

MR. WILLIAMS: I object to the

A. question. I am still looking for things that were

new and were not covered in the 284 patent. It doesn't show how long the spot is either. And

Q. there may be a half inch or a 1-inch spot, they may have looked parallel because I can't really remember whether you could get that to go the full length

A. of the screen or not. I do remember more spots

such as "C" in that Figure 6. It is possible that

Q. this "D" could have been elongated, but I don't

really remember. I rather doubt it in that that would involve slicing the whole vertical sawtooth

A. wave form out and then differentiating that to give

a zero slope output. I think it is possible that

Q. practical limitations would have made it somewhat

difficult to elongate that particular spot all the way across the screen and keep the sides parallel.

Q. Is there anything else that you recall after

A. reviewing the drawings of the 285 patent that the

three of you developed together that you had not

developed alone? If you wish to take a few minutes to review the descriptive material also, you may,

if you think that will help refresh your
recollection. to a square spot system when I asked

A. All right. as I am still looking for things that were new and were not covered in my patent 284, is that correct? start off by telling you what it was not.

Q. No, I was asking for things that the three of you developed that had not been developed by you alone, whether or not they were in your 284 patent.

A. Things that were developed by the three of us and were not developed by me alone? vertical or horizontal.

Q. I don't think that we ought to take the time for you to read the entire specification, if you are able to refresh your recollection. ~~the~~ ^{and log} spot was

A. Could you perhaps help me and tell me which section of this might describe all these features?

Q. Well, I thought perhaps by examining the drawings, you might be able to get some idea; and, if you had

A. any question about what was in the drawings, perhaps you could refer to the specifications. with that

Q. I covered before the square spots which are shown

A. in Figure 1. If That I think was one of the features that hadn't been covered in my patent alone, but

we are not talking about that patent. I think I would

Please correct or mislabeled or spelling error

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- still say that the round spot system had been
- Q. You referred to a square spot system when I asked you that question earlier. What was the square spot system, to which you referred?
- A. I will start off by telling you what it was not. It was not the sliced diode scheme. In that that scheme tended to generate round spots or diamonds, if you will, and the figures shown in that 284 patent as opposed to these square or rectangular (Whereupon, the requests' spots with sides being either vertical or horizontal. questions and answers were read back by the reporter.) This square spot system was more of a digital type system as opposed to the sliced diode thing, (perhaps analog), wr being called an analogue, and a square spot was essentially the way the spots were being generated before my sliced diode system came along.
- Q. You mean the system that Mr. Baer had developed previously to your going on the TV game project?
- A. Yes, but not voltage control of those spots.
- Q. Did you have anything to do personally with that square spot system of the 285 patent?
- A. In that modifications were made on that square spot system which led to the voltage control of square spots and then enabled that system to play.

Punct & misquote ^{and/or} spelling. wfc

5/26/76

all the games that the round spot system had been able to do.

Q. When you say that system, were you referring to the Baer system, the earlier Baer system? 1 to the

A. Yes, I referred to this as a square spot system,

A. if you will. I really contributed much more than

significant incentive. MR. WILLIAMS: Would you reader the last two questions and answers, please?

BILL HARRISON'S IDEAS TO 4 Let me rephrase that.

(Whereupon, the requested I think by that time the thought was in all our minds that this voltage control was a possibility and a very desirable one in that we had seen it

implemented with this THE WITNESS: By I would like

to add a little more to that part. Maybe I should

be more specific. I didn't usually say the Baer system, but since you did, I think I would define

that as this earlier system which involved square spots, but not voltage control of those spots pulse

because we see in this patent later on we had square spots, but we had voltage control and I believe

feel that all these steps leading up to the voltage control of the square spots and the games played there were pretty much a joint contribution of the

Q. three of us which is why all three put in this

A. patent as coinventors. ^{we} giving a good example in that

Q. What did you personally contribute to the ^{and he had} modification of adding voltage control to the ^{the} earlier Baer square spot system? ^{spots, but he had}

A. I am not sure I really contributed much more than significant incentive for it. It is hard to remember exactly how things happen. ^{I believe it was if} Bill Harrison's idea to - let me rephrase that. ^{as} I think by that time the thought was in all our minds that this voltage control was a possibility and a very desirable one in that we had seen it ^{taking} implemented with this round spot system and I was trying to say just before, I think it was ^{and he must} Bill Harrison who came up with an implementation ^{if} technique which adapted this square spot - the earlier square spot system to voltage control. I believe he came up with a voltage controlled pulse generator or delay multivibrator. I am sure we ^{act} could find it in the exhibits. As I say, I believe that actual circuit was Bill's contribution; and, as I say, mine perhaps was most significantly providing some incentive for this to be done.

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Q. How did you provide such incentives?

A. ^{wR} In the best way, by setting a good example in that Bill and I worked in that room together and he had not only seen the games that were possible with electronic control of the round spots, but he had helped considerably in reducing these to practice from my concepts and I think it was a case where success breeds success, that it is possible if we had failed miserably in making the round dots bounce around the screen with electronic control, we may have given up, but whereas they worked and Bill knew they worked - in fact I probably am taking

^{wR} much too much credit for that, I think Bill had seen these work and in the back of his mind he must have known that it would be a very good feature if we could adapt the square spot system to the same thing., did any of you suggest that it would

Q. Was the round spot system done not satisfactory? ^{of} of your system.

A. MR. WILLIAMS: Well, I object to the question as being vague. Satisfactory to whom, for what; there is no definition of what you mean by satisfactory?

THE WITNESS: Shall I answer?

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written in speech.
written in speech.

A. I said each system offered MR. WELSH: Yes. advantages, yes, as opposed to the advantage MR. WILLIAMS: If you understand the question.

Q. What advantages did THE WITNESS: I will rephrase my understanding of the question and my answer. square The round spot system was satisfactory.

Q. Why, then, was there any attempt to improve it or to go to something else? d generate a round spot - taking wife

A. This was not really going to something else. These were more or less two parallel approaches that were going along, actually the square spot being the first one; and if for no other reason than possibly ^{wife} than later solid patent coverage, it probably made sense to continue along the development of both lines.

Q. In arriving at the implementation technique which

A. added voltage control to the earlier Baer square

spot system, did any of you suggest that it would be better to have square spots than the round spots of your system? ly control the square spot also,

A. From some aspects, yes. Each system offered certain advantages. less equal in that respect.

Q. Advantages that were not present in the other system? nature seemed less susceptible to

wife 05/26/76 Probably my error in speech.
Delete for clarity.

A. I said each system offered certain advantages, yes, as opposed to the advantages of the second system, yes. wasn't or couldn't have been solved. I seem

Q. What advantages did the round spot system have over the square spot system? say That is, the later square spot system? spot system did offer that advantage.

A. From an aesthetic standpoint, I was always rather

Q. fond of it in that it did generate a round spot system which actually came closer^{wk} to simulate a hockey

A. puck or a ping pong ball or any kind of round thing like that used in playing games. I think at the time I was trying to develop it I was hoping it might end up simpler and cheaper. I am not sure whether it did or not. to generate long lines or

Q. Any others? what have you, with square corners and

A. Well, for a while that round spot system seemed to have the definite advantage of relatively easy voltage control of spots, but once it became possible

to electronically control the square spot also, then naturally that advantage lessened and the things two became more or less equal in that respect. where

As I recall, the square spot system being more of a digital nature seemed less susceptible to

correction of English (wR) 5/26/76 ^{not my machine}
^{wR} 5/26/76

Q. temperature drift, things like that. I don't think this was any huge drawback of the round spot system that wasn't or couldn't have been solved. I seem

A. to remember doing some work on that, temperature compensation. I would say, though, that technically the square spot system did offer that advantage.

A simpler way to avoid temperature problems. years.

Q. Any other advantages of the square spot later system over the round spot system?

A. I would say depending on how accurate my memory is (whereupon, a recess on this question of the elongated spots of the was taken.)

round dot or sliced diode system, that that might

Q. have been an advantage of the square spot system, that it was very easy to generate long lines or rectangles, what have you, with square corners and parallel sides. I'd say it depends a lot on the application of which system one might like best.

A. I think the round dot one as mentioned in a lot of these write-ups permitted a lot of, if you will, strange shapes to be generated. Hollow rings, things like that. And for any kind of a random game where one wanted random-shaped spots to appear, that one might offer some advantages.

Deleted word for clarity + to show my meaning
W.R. 5/26/76

Q. Are there any other advantages of either system in over the other? That is, the round system or the later square spot system?

A. With the benefit of nine years of hindsight, I

A. might say at this moment the digital version may be simpler and cheaper to implement whereas digital technology has come a long way in this nine years.

or one-quarter the ^{wf} MR. WELSH: Let's take a break at this time. ^{wf} years ago, integrated circuits.

^{wf} Micro-processors. There has been fantastic ^{wf} developments in that field. The small desk or hand-type calculator you see all over the place. That,

Q. (By Mr. Welsh) You have been referring to nine years, I believe you just said that digital

Q. technology had come a long way in this nine years, what determines that period of nine years or maybe you meant a different period? IAMS: I object to the

A. I think I was referring to - well, obviously 1967 through '76. I think that is when I started on you this TV project and we went through all those dates.

Q. I think that is when this came into my life. referring

Q. So that when you said the digital version; that is, the later digital version might be cheaper now

7-26-76 by Punct + 501/4 wfd 5/26/76
of "ELECTRONICS"

because digital technology has come a long way in nine years, those are the nine years you meant? *wrc*

A. Yes. the question as vague. The latter part of

Q. What did you mean by a long way? *wrc*

A. Well, just that I read "Electronics Magazine" every month and now they are coming ~~down~~ ^{out wrc} with 16,384 bit random access memories. And in, I think, one-half or one-quarter the space of the 4000-bit memories they had a few years ago, and integrated circuits. *wrc*

wrc → *ors*
Micro-processes. There has been fantastic developments in that field. The small desk or hand-type calculator you see all over the place. That,

A. and going to the moon is one of the marvels of my

Q. lifetime, I think. It's bit 49 which is a certified

Q. Well, that technology has been more recent than the last nine years, hasn't it? *wrc* and specifically I show you a page ent MR. WILLIAMS: Do I object to the question; what do you refer to by "that technology?" *wrc*

A. on that page? THE WITNESS: Yes, what do you refer to by "that technology?" *wrc*

Q. Well, the digital technology that you were referring to as having come a long way in nine years, it has come a long way in the latter part of the

wrc Punct + spelling *wrc* 5/26/76
of "ELECTRONICS"

Q. nine years, has it not? that you read the foregoing specification and claim?

A. MR. WILLIAMS: Well, I object to the question as vague. The latter part of

Q. the nine years is doubly vague. It is usual practice

to do that in the case.

A. THE WITNESS: I don't know. I have only been subscribing to Electronics for about a year and perhaps these developments were

Q. going on the first eight of these nine years and

I wasn't aware of them quite as much as I am now since I have been reading more about them.

Q. How long have you been aware of the pocket calculators

Q. that you refer to? file which was produced on behalf

A. Perhaps five or six years. Legend D-2837 having

Q. I now hand you Exhibit 40 which is a certified

copy of the file wrapper and contents of the

application for Patent 3,659,285 and specifically

I show you a page entitled "Oath, Power of Attorney,

and Petition" and ask if your signature appears

on that page? Are there any entries by you

A. Yes, any of the papers in this file in a manner similar

Q. And is there a date which you entered by your

signature?

A. Yes, August 18, 1969. MR. WILLIAMS: Just for my

Q. Now, that oath states that you read the foregoing specification and claims? read them out at this

A. Yes.

Q. I believe you stated it was your usual practice to do that in the case of an application, did you follow that practice in this case? on which he

A. I believe so, yes, so that they can be identified.

Q. Were you asked or did you review any drafts of

Q. the application prior to this date when you signed

A. the oath? and across very few corrections so far,

A. I probably did, getting into whatever you call this

Q. I now hand you a file which was produced on behalf of Sanders containing the legend D-2837 having

the words "work copy" stamped on the outside. There

is another file that was also produced with the

Q. same number which indicates that this number was

used to identify the files of the patent No. 3,659,285.

I ask you now to go through this work copy file and

A. check it to see if there are any entries by you

on any of the papers in this file in a manner similar

Q. to that which you did yesterday with respect to

A. the 284 patent? together, we had to the letter.

I don't think, and MR. WILLIAMS: Just for my

clarification, he is only to go through to see if there are any entries, not read them out at this time?

r.Seligman seemed to have very few corrections

and I cannot really say. Right. We will determine first if there are some. If there are, perhaps we can separate those parts on which he finds such entries so that they can be identified.

THE WITNESS: Possibly, yes.

Q. You say possibly or are you more certain than that?

A. Well, I came across very few corrections so far, I am just now getting into whatever you call this thing, the document that is fastened underneath a memo from Richard Seligman to Ralph Baer, William Rusch and William Harrison dated July 29, 1969. Those are all stapled together.

Q. Is that a copy of a message similar to that which was marked as Exhibit 50 forwarding a draft of an application?

A. Yes. As I say, the big pack of papers stapled on top of that letter or fastened with a clip rather - - -

Q. They are stapled, are they not? Mr. Seligman,

A. They are stapled together, but not to the letter, I don't think, and there are two groups as

Mr. Williams points out. At any rate, all those papers fastened by the clip on top of that memo from Mr. Seligman seemed to have very few corrections and I cannot really say that I could identify any as mine. In the drawings I found a few things that may or may not have been marked. For instance, in Figure 11A, two potentiometers were sketched in in red. I don't believe that is mine, but it is possible. I didn't find an awful lot of corrections in those figures either. Let me just say that there were a few corrections in red in those figures that may have been mine, but I can't tell.

Q. Now, the corrections that you say you did find in the draft under the copy of the message from ~~possibly~~ Mr. Seligman, those are all stapled together, ~~that had~~ are they not?

A. They appear to be. Then there is another pack of papers underneath them and I can't really tell if they are stapled together, but they are all held in there with one big clip.

Q. That has the same to MR. WELSH: Mr. Seligman, could we remove these from the file and mark them?

Q. And bears the same to MR. SELIGMAN: Yes. D-2837,

page 1, 5/27/69?

MR. WELSH: I would like to ask the reporter to mark this copy of a message from Mr. Seligman as Exhibit 53 and the drafting, constituting many pages stapled together having a title "Television Gaming Apparatus and Method"; and also the title on the first page, "DRAFT RIS: sm in D-2837," page 1, 5/27/69, as Exhibit 54. by someone who writes quite similarly and I am not being facetious. (Whereupon, Exhibits 53

and 54 were marked for

Q. Were you familiar with the handwriting of Mr. Paer? identification.)

A. More or less in that I worked with him and got

Q. Did you find another draft with notations made by

Q. you? about Mr. Harrison?

A. I think so. When I answered the question possibly

Q. yes earlier, I was looking at the Exhibit that had been right under that memo to Mr. Seligman.

Q. Now marked Exhibit 54? Harrison?

A. Yes, now marked Exhibit 54, which appears to be a copy of this collection of pages - which was new, underneath it that I am looking at now. asking if

Q. That has the same title? iting, st I surely can't

A. Yes, Television Gaming Apparatus and Method. what

Q. And bears the same legend, DRAFT RIS: sm D-2837,

- added to convey meaning as spoken. wpt
originally

3724776

page 1, 5/27/69? please, "including a television

A. Yes. In that Exhibit 54 I had come across a few words which I thought might have been my writing, that is when I said possibly yes. I refer now to the original which we think was the original of this Exhibit 54. I can say that some of these words in here are either in my writing or done by someone who writes quite similarly and I am not being facetious.

Q. Were you familiar with the handwriting of Mr. Baer?

A. More or less in that I worked with him and got notes from him and things like that.

Q. How about Mr. Harrison?

A. Yes, the same way.

Q. Do those notes that you just referred to as possibly being yours appear to be in the handwriting of either Mr. Baer or Mr. Harrison?

A. I don't know. I say I was familiar with the wR handwriting; I am not really familiar with it now.

As I say, I am having a hard time determining if it is even my own handwriting, so I surely can't say if it was one of Baer's. At the top of what is labeled page 6 of this document, I am looking

originally

- added to convey meaning as spoken. wpc
5/26/76

at - there is a phrase, "including a television receiver and a control unit." I think that may be my handwriting. It is sort of a conglomerate mixture of script and printing or lettering which I sometimes do when I am writing fast.

A. Similarly at the bottom of page 7, some of the words look very similar to my handwriting. For instance, signal generator in the fifth line from the bottom, the line starting with Figure 17.

Q. That is the group of five lines that are in someone's handwriting? Exhibit 35, is that so?

A. Yes, as far as I can see with you, Mr. SELBYMAN: *Most handwritten things are! (we were talking about handwritten things) - for hours!*

Q. With blue ink?
A. With blue ink. In that same line the word "schematic" looks like I may have written it where "c-h-e" the "s" sort of sits alone and the "che" are more or less connected and then there is an "m" and the so on. I am not a handwriting expert, but, as I say, some of these words look as if I might have written them; but, by the same token, I come down to the second line from the bottom and the word "signal" doesn't look like the way I would write it. I can say this next page which apparently was

Clarity +
Punct.
2/2
5/26/76

inserted, it is called page 8, it is a yellow piece
of paper - - -

(Whereupon, Exhibit No. 55

Q. It is marked page 8 in the upper right-hand
corner?

identification.)

A. Yes. That is not my writing. So if you can get
Mr. Fisch, there were some other papers beneath
a handwriting expert to determine that that yellow
page and the writing on page 7 was done by the
same person, I would say none of it is my writing.

A. MR. WELSH: Before you go
I will look. I haven't finished with that exhibit
further with that draft, I would like to ask the
yet.

Q. reporter to mark it as Exhibit 55, if that is
Yes, I understand, I think you haven't finished
agreeable with you, Mr. Seligman?
with either 54 or 55.

A. MR. SELIGMAN: Yes, that is
Correct. I came across some corrections in these
fine.

pages, but I don't recognize any of them as being

MR. WELSH: I am selecting
mine.

Q. for marking as this exhibit, which are not connected
returning now to Exhibit 54 which you indicated
together except by the ackle fastener, but in the
appears to have been copied from Exhibit 56, I
upper right-hand corner they have consecutive
note that there are some fresh corrections on
numbers from one up through 68, there being some
Exhibit 54 that are not a result of Xerox copying,
additional pages beneath that, but not having such
I wonder if you could now check Exhibit 54 directing
numbers. There being one in that group. A staple
your attention only to those entries which were
connects pages numbered 52 through 68 plus one
not copied xerographically and advise us whether any
unnumbered lined page attached to the back having
of those were made by you?

some handwriting on it.

(Whereupon, Exhibit No. 55
was marked for
identification.)

Q. Mr. Rusch, there were some other papers beneath those that we removed and marked as Exhibit 55, do you find any notations in your handwriting on any of those pages?

A. I will look. I haven't finished with that exhibit yet.

Q. Yes, I understand, I think you haven't finished with either 54 or 55.

A. Correct. I came across some corrections in these pages, but I don't recognize any of them as being mine.

Q. Returning now to Exhibit 54 which you indicated appears to have been copied from Exhibit 55, I note that there are some fresh corrections on Exhibit 54 that are not a result of Xerox copying, I wonder if you could now check Exhibit 64 directing your attention only to those entries which were not copied xerographically and advise us whether any of those were made by you?

the first indication MR. WILLIAMS: "I will state just so the record is clear, any indication that Mr. Rusch might have made that Exhibit 54 was copied from Exhibit 55 was based on a very cursory examination. I don't think he examined every possibly page of the exhibit to determine this."

Q. When you refer to par MR. WELSH: "That is my understanding right-hand corners?"

A. Yes. THE WITNESS: Yes. In fact,

Q. I think I just looked at the first two pages and they seemed to line up and I was just trying to

A. be helpful. The few corrections I came across in this Exhibit 54 which were not xeroxed, as you say, seemed to have been done in a red felt pen and I don't recognize them as being my handwriting.

Q. Would you now go through Exhibit 55 and advise us which entries, if any, on these pages were made by you? handwriting expert, but I can't really say

A. Again by entries, you mean the handwritten ones, right? written paddle, but I don't think I wrote the

Q. Yes. "this." I feel more strongly about the words

A. On page 1 of that exhibit, the handwritten words "representing symbols" appear - I think this was it."

the first indication I had earlier when I referred to handwriting that was either mine or quite similar to mine. I will just put it that way, I can't say that that is not my handwriting. Similarly on page 2, the words "by participants" may possibly be my handwriting.

Q. When you refer to pages, do you mean the numbers in the upper right-hand corners? previously, I made

A. Yes. Reference to the words "signal generator" in the

Q. They are handwritten with the word page followed by a numeral? That seems to be my writing. Then

A. Yes. Again on page 5, I was a little bit confused in that the inserted word "paddle" looks quite similar to my writing, I believe, but a few lines underneath it, the word "this" apparently written in the same blue pen I doubt was done by me. The way the "t" slants upward. Again I am an engineer, not a handwriting expert, but I can't really say for sure that I wrote those words. I think I may have written paddle, but I don't think I wrote the word "this." I feel more strongly about the words written in near the top of page 6. The words are "including a television receiver and a control unit."

- A. Unless I am badly mistaken, I believe that is my writing. The words lower down on that page saying "Figure 7B are wave forms illustrating operation of the circuit of Figure 7A," again fall in the category that I might have written them; but it is also possible if someone with writing similar to mine had done it, that I could be fooled. I think I discussed the words on page 7 previously. I made reference to the words, "signal generator" in the five inked lines from the bottom beginning with "Figure 17." That seems to be my writing. The word "schematic" earlier in that phrase looks like mine. I think I had discussed all these inked ten phrases on this page and I will stick with what I said before. On page 9, the inserted "OR I make unshielded" written in blue pen could have been mine. They are more or less in lettering instead of script which makes it a little harder to identify as one's own. I can say the blue writing near the end of the first paragraph on page 10 or on definitely does not seem to be mine. Do you want me to identify that or is that sufficient?
- Q. No, just anything that is yours or that you think.

might be.

- A. I think that the inserted phrase near the bottom of page 10 might be my writing. The phrase says, "more than two controlled units may be provided when additional participants are to take part." I will still have to say, though, that there are characteristics of that that I seem to recognize as mine, but other parts of it that I don't seem to recognize, which may sound strange, but it is the truth. At the top of page 11, the word "can" was inserted over the crossed out word "would." That may have been my writing, but I can't be sure about that. I would say the same for the written word "five" inserted at about the middle of page 12. I think the "f" in that word is not the way I make an "f". Any of these are hard because they are in printing. I would say the handwriting in blue on page 17 is definitely not mine, nor is the writing at the top of page 18. However, on that same page the inserted word "tying" and further on the words "hand for A" may have been my writing. On page 19, the writing inserted at the end of the first paragraph I recognize as not being mine,

but probably that of this person I think that
must write a little bit similar to the way I do
(whereupon, the luncheon
in that the last words of that insertion "such as
recess was taken.)
a joy stick" are partly printed and partly script-
written which is one of my habits and without the
first part of that phrase, I might have identified
those last few words as mine. ^{ng on those pages}

- Q. Is it possible that you might have reviewed the
A. draft after someone else and made the insertion of
joy stick to the remainder of that? quite possibly
A. I would doubt it very much because that would have
said whoever wrote the first part would have just
written part of a sentence and not ended it with
a period or anything nor with anything that made
well, let me be careful here. Grammatically it
would make sense if he had ended it after mechanism,
but I am not sure how much sense. I would say like
I doubt that that happened. I would say at the
bottom of that page there are two different ^{correspond} _{here}
insertions in ink and these again are somewhat ^{similar}
similar to my writing, but enough different that
I would say that those are not in my handwriting.
^{wf}
³⁷²⁵⁷⁶
It is possible that MR. WELSH: Why don't we stop

here for lunch. Only on page 25 near the bottom there appears the inserted word "opponent." I can't say (Whereupon, the luncheon for sure that that is not my writing. On page 31 recess was taken.)

the phrase inserted above the sixth line from the

Q. (By Mr. Welsh) Mr. Rusch, would you please go on examining the pages of Exhibit 55 and tell us that what, if any, entries appearing on those pages appear to be yours? Isd phrase at the bottom of that

A. I believe we left off by finishing page 19. Please believe the corrections on page 20 quite possibly were made by me. The words "position on one side of the screen and on the other side of the screen" and lower down the word "as" possibly are in my writing. On page 23, the words near the bottom of the page inserted as "are used, too" could be intions my writing. Again on page 24, I see a case where some words of a phrase written in blue ink look like they possibly at least ^{? correspond} could respond to the way I write some of those words, but I think there

are enough differences, for instance, the capital

"T" in "V" which makes me doubt that I wrote any

of that particular phrase. But even with that,

it is possible that I wrote it. It is very hard

w/p
5/25/76

?? → ?
w/p
5/26/76
Check the exhibit.

to say. Similarly on page 25 near the bottom there appears the inserted word "opponent." I can't say for sure that that is not my writing. On page 31 the phrase inserted above the sixth line from the top, to wit, the words "on the screen" may be in my handwriting; however, I can't identify that as being mine with any more surety than certain of words of the encircled phrase at the bottom of that page. Again it is the problem that some of these words in that lower phrase look like - I suppose anybody could have printed them that way. It just so happens that I print that way sometimes, but if in that lower phrase the third word from the end, the word "form" does not at all resemble my writing, so it is possible that I made none of the corrections on that page. It seems that the small "s," the lower case "s" in writing at the bottom of the page is almost exactly the same as the writing inserted above the sixth line from the top, so it might almost look like that the same person wrote the whole thing, but that person was not me. On page 34 I see some more lower case 's's made the same way, but I don't think I wrote them. I emphasize the

think in that the word "the" in the last inserted phrase on that page 34 has a combination of a "t" connected together which I don't remember ever having used, but even with that, it is quite possible that if I wrote this fast, I may have done it. Again all the corrections on page 35 made in blue ink seem close enough to my style of writing that I have to look at them very closely. I don't think that that is my writing. One of the reasons I say that is the way the "r" is made in the word "inverted" at the very bottom left of page 35. That more or less old-fashioned way of writing making an "r" is one that I don't think I used at all, certainly not very much. I would probably have to find writings that I had done about this time in other things that I wrote to really identify it as mine to be sure about that. I think I can say with certainty that the blue ink words on page 36 are definitely not in my writing. Again on page 38 there is some similarity with my writing, but I think there are enough differences so that I can say that that is probably not my writing. Again I look at the way the "t" and the "h" are connected

6/26
Final

Punct
WPA
5/26/76

and I don't think I do that, but it is possible that many years ago I may have used such a word as I think I can say with fair certainty that the writing at the top of page 39 is not my writing, although again there are some similarities; there are enough differences to make me doubt that that is my writing. One of the differences is the reversed lower curve of the "f" in the word "of" in the fourth line from the top of the inserted writing. On page 39 there was a correction inserted above the words "ping pong to paddles" in line 14. Is I cannot say that this insertion is not in my handwriting, there are some similarities; but neither can I say for sure that that is my handwriting.

Q. Emphasis on entries which you believe that you might have made. In the insertion above line 8, there are again some old-fashioned "r's"; one in the word "manner" and the other "generating"; I am quite sure that is not my writing.

A. Perhaps the word "that" On page 40 above the second line is an insertion which I think says, "here in above". That word has one of what I call the old-fashioned type r's and I feel now that writing

WPA
5/26/76
Punct.

- Q. containing such old-fashioned r's were not done
- A. by me because I doubt very much if I would have used such a word as here and above. I would more or less doubt that I made any of the corrections on page 40.
- In page 60, the inserted words, "trains, frequencies On page 45 above the fourth line an insertion was made of the word "serial". Again that word uses what seems to be a mixture of the unconnected letters of lettering or printing, and the connected letters of script, which I have a habit of doing sometimes. It is possible I wrote that word, but at this point I would rather doubt it. Would you still like me to do this page by page? writing, but on an overall basis, I would say
- Q. Yes, putting emphasis on entries which you believe that you might have made. I think you have been noting several which you are sure you haven't made, I would like to have you note the ones which you think you might have made.
- A. Perhaps the word "transverse" on page 49, but again even that being in more or less printing makes it difficult to say. This is considered part of that exhibit, is it? (Indicating) I am satisfied that.

- Q. Yes. description of the invention of which you
- A. On page 58, the words inserted above line 15, the words being, "either of" possibly are in my complete? handwriting, but I sort of doubt that. you recall, Mr. Rusch. On page 60, the inserted words, "trains, frequencies and means for generating," bear enough similarity to the way I might write those words to make me study them very carefully and in all I can't say is that it is possible I wrote them, but it is equally possible that I did not. specification and claims On page 68 at the bottom, A. Item 32, again certain of the printed words seem Q. to include some of the characteristics of my handwriting, but on an overall basis, I would say I did not write that. And similarly on the last page there again is some similarity to my writing or printing, but I doubt that I wrote that page.
- A. I doubt it rather strongly. In fact, I think I can say I did not write that page.
- Q. As of August 18, 1969, the date when you signed the oath for the application for the 285 patent, such oath stating that you had read the foregoing specification and claims, were you satisfied that

the description of the invention of which you were named as one of the inventors in the specification and claims was accurate and complete?

(Whereupon, the previous answer was read back by MR. WILLIAMS: If you recall, the reporter.)

Mr. Rusch.

Q. Did they have the set THE WITNESS: I don't really recall the oath for the 285 patent; that is,

Q. Do you recall anything about whether you made any comments to anyone such as the members of the 369? Legal Department at Sanders regarding the specification and claims? That question and I object because

A. I am not sure of that. answered.

Q. As of that same time when you signed the oath for the 285 patent, did the terms television receiver and standard television receiver have the same meaning to you as they did when you signed the oath for the 284 patent? I would like to have you

A. I don't recall if sure. witness.

Q. You have no recollection?

A. I would say perhaps not in the context of these inventions. They might have had the same meaning earlier as they do now.
(Whereupon, the previous question was read back by the reporter.)

MR. WELSH: Could I have that

Q. answer read, please?

(Whereupon, the previous
transcript from the examination file from the
answer was read back by
the reporter.)

- Q. Did they have the same meaning to you at the time you signed the oath for the 285 patent; that is, in August of '69, that they did when you signed the oath for the 284 patent; that is, in May of 1969?

MR. WILLIAMS: I think he has already answered that question and I object because it has been asked and answered.

- MR. WELSH: He said he didn't recall and then I asked if he had no recollection at all and he made an answer which I think is confusing on the record and I would like to have the question answered and I would like to have you read the question to the witness.

(Whereupon, the previous transcript from the examination file from the answer was read back by the reporter.)

THE WITNESS: I think so.

Q. Subsequent to the time yesterday when you testified with respect to corrections in Exhibit 49, the draft taken from the application file from the 284 patent, have you had any discussions with

A. anyone about your testimony regarding corrections to these drafts of applications? the case, I

A. Yes. I don't have talked with anybody about it.

Q. With whom? ^{ve} any discussions with Mr. Williams

A. I think with my son James briefly last night and

A. possibly with a Miss Judith Weatherbee. I don't

Q. quite remember in the question; did you say ^{ted,} discussions about these or just mentioning it?

Q. Did you have discussions about your testimony, regarding the insertions in the drafts of

A. specifications for applications for patents? ^o that

A. I wouldn't really call them discussions. In

talking with these two particular people, I did say

how I was down here having my deposition taken and

that part of it did involve sitting here and that

rereading a lot of words that I had written in down

this. I didn't by any means tell them what the ^{half,}

words were; I doubt if they would really understand

what they were about. It was more or less in the ^{think}

course of casual conversation. So far I have not been, to my knowledge, forbidden from discussing this case with people like that.

Q. I didn't mean to imply that you were.

A. And I didn't mean to imply that I was annoyed at it, I am just saying if that was the case, I wouldn't have talked with anybody about it.

Q. Did you have any discussions with Mr. Williams regarding the insertions?

A. I don't believe so.

Q. On the first day when your depositions started, you noted that you had had a conference with Mr. Williams at eight-thirty that same morning, how long did that conference last?

A. Yes. MR. WILLIAMS: I believe that question has been asked and answered.

A. MR. WELSH: I wasn't sure whether it had been, therefore I ask it again.

THE WITNESS: Well, if that was one of the days we started at ten o'clock down here, naturally it was less than an hour and a half. If it was one of the days that we started at nine-thirty, then it was less than an hour. I think

my previous answer said perhaps on the order of thirty minutes. Whether or not the previous answer did say that, I seem to recall again that it was on that order of time.

Q. I may have asked this question, too, and I haven't had a chance to check the transcript, so I will ask it again; What was the gist of the discussion at the meeting with Mr. Williams?

Q. that you had previously. MR. WILLIAMS: I object to the question as calling for information protected by the attorney-client privilege and therefore I instruct the witness not to answer.

Q. Subsequent to that time, have you had any other meetings with Mr. Williams?

A. Yes. Rusch.

Q. When were those meetings? WITNESS: I might not

A. I believe you brought out the fact, I believe it was on that same first day of this deposition with me, that I went to lunch with Mr. Williams and several other people, although I still consider it more of a luncheon than a meeting and that we really didn't discuss things more important than whether to have spare ribs or chicken wings.

Seriously, I don't remember discussing this case in any kind of detail at that luncheon meeting, or at that luncheon. Since that time, I have seen Mr. Williams briefly several mornings up on the sixth floor of this building on days when I was here before; for example, you were and/or the stenographer and the rest of the people.

Q. At those meetings, did you discuss the testimony that you had previously given?

A. I'd say yes, or at least referred to it.

Q. Did you discuss testimony which you expected to give?

A. Not in any great detail. I might say - - -

MR. WILLIAMS: Wait a minute,

Mr. Rusch.

THE WITNESS: I might not say.

Q. Would you relate the discussion in detail in which you did discuss it?

MR. WILLIAMS: I object to the question as calling for information protected by the attorney-client privilege and I instruct the witness not to answer.

Q. Did you discuss what subjects I might be expected to question you about?

A. Yes. I went to the Post Office and applications for reissue of those

Q. Did you discuss specific questions which might be asked?

A. I think at least one of them was and probably

A. I don't think so, no.

Q. Did you discuss answers to questions regarding particular subjects?

A. I probably did, that was probably one of the

MR. WILLIAMS: I object to further inquiry as to conversations between myself and Mr. Rusch as calling for information protected by the attorney-client privilege and I instruct the witness not to answer the question.

Q. Were you given instructions on answering questions in your deposition?

A. MR. WILLIAMS: I also object to that question and instruct the witness not to

A. Probably not, but it may take a little swaying to

to that question and instruct the witness not to

answer.

Q. At the present, you do not recall whether

Q. Relate the gist of the discussions you had at those meetings?

A. There were two, but I am not

100 percent sure. MR. WILLIAMS: I object to the

question for the reasons previously stated and

instruct the witness not to answer the question.

Q. You are aware, are you not, that the original 284 and 285 patents were surrendered to the Patent Office and applications for reissue of those patents were filed?

A. I think at least one of them was and probably both of them, yes.

Q. You don't recall specifically?

A. I probably should, that was probably one of the oaths we looked at here yesterday. I really have not reviewed all these documents nor studied them thoroughly like you people have been; I have had other jobs to do for quite a few years, but I do know some reissue was made.

Q. Apart from the documents, is that the extent of your memory with respect to reissue applications?

A. Probably not, but it may take a little jogging to dislodge this back into consciousness.

Q. At least at the present, you do not recall whether there was just one reissue application or two?

A. I sort of feel there were two, but I am not 100 percent sure.

Q. I show you Exhibit 14 which is a copy of reissue Patent No. 28,507 which is a reissue of

Patent No. 3,659,284; you are the Williams T. Rusch named as the inventor in that reissue patent, are you not?

A. Yes. Can I ask about the filing of both applications

Q. I now hand you Exhibit 15 which is a copy of

A. Reissue Patent No. 28,598 which is a reissue of

C. Patent 3659285; are you the William T. Rusch named as the inventor in that reissue patent?

A. I am not sure I understand all your language of this thing being a reissue of that thing, but I would believe my name and my address of Hollis, New Hampshire, on this document as you describe it would say, yes, I am one of these three inventors.

Q. These reissue patents indicate that they were filed on April 25, 1974, which is slightly less than two years ago; do you recall how you first learned that the reissue applications were to be filed?

MR. WILLIAMS: The question appears to be in the alternative you were asking him the same question about two separate applications as far as I can tell and the question is therefore vague.

THE WITNESS: Shall I try to

Q. answer, anyhow? I don't recall specifically, it was probably either through Ralph Baer or our Sanders Associate Patent Department.

Q. Did you learn about the filing of both applications at the same time? to you at some meeting?

A. I don't remember. It might have been at a meeting.

Q. You don't remember how you learned of the filing of

Q. these applications; do you know why the applications were filed? Id was the reason for the filing of these reissue applications? MR. WILLIAMS: I object to

A. the question of why, that requires a motivation to respond to that question and the question of whose motivation it is. There are three separate inventors. If you are referring to Mr. Rusch's motivation, he may know that. There is no foundation as to his knowledge of why on the others.

Q. What were such code? THE WITNESS: Shall I try to answer? cation?

A. I'd say one specific. MR. WILLIAMS: Answer as best you can. 284 patent.

Q. You mean column 17? THE WITNESS: I believe that it was to ensure that the intent of the previous patents which were issued would perhaps be clearer

to other people.

Q. Who told you that that was the reason?

A. I believe it was probably Mr. Seligman or Mr. Etlinger, possibly Mr. Baer.

Q. Was that explained to you at some meeting?

A. I don't remember, it might have been at a meeting, it might have been over the phone.

Q. Do you remember anything else with respect to what you were told was the reason for the filing of these reissue applications?

A. Not really. I have the impression it was described as an attempt to make sure of our patent position and make sure that our original intents were indeed clarified wherever necessary to make sure that there would be no misunderstanding about them.

Q. What were such original intents that needed clarification?

A. I'd say one specific thing is on page 17 of the original 284 patent.

Q. You mean column 17?

A. Column 17, beginning with line 12 where it says,

that right in thinking about what transpired here

"In a further embodiment of this invention a unit is set forth which is used solely for TV gaming and does not have capability to receive broadcast programs. This is illustrated in the simplified block diagram of Figure 19." And, in that figure, I think is shown at least the intent and possibly a lot more than that that these games could be used on other than complete, let me say, living-room-type television receivers. They could be used effectively with devices having cathode ray tubes with scan, but not necessarily having an RF section.

And I think a lot of the machines that I have seen in use around malls, etc. - - - (interrupted) witness was

w/r 5/27/76

Q. Was this portion of the original patent 3,659,284, pointed out to you at the time that you were given the reason why the reissue applications were to be filed? Your question in that regard. That is,

A. I don't remember. In 27 of Patent No. 3,659,284?

Q. Have you had occasion to refer to this section recently? C. A. Foddai, Mr. Kosch?

A. Yes. (REDACTED) I don't recall.

Q. What was that occasion? (REDACTED)

A. Last night in thinking about what transpired here now.

yesterday, I had the feeling that in this legal area I was definitely not on as firm a ground as I was in the circuitry area and that whereas with circuits I could jog my memory back rather rapidly sometimes by looking at them, I thought it might behoove me to look through this patent a little bit whereas everyone else down here seems to have studied it in quite some detail. I requested a copy of it this morning and started looking through it and was rather happy to find this diagram such as Figure 19 and these words in column 17 which I do definitely believe show that at least my attempt way back when this thing was going on and right now, too, is that the RF section is not required to get these games onto the face of a CRT display.

Q. Is last night or today the first time that you considered this section in that regard. That is, the section, column 17 of Patent No. 3,659,284?

MR. WILLIAMS: To the extent that you can recall, Mr. Rusch.

THE WITNESS: I don't recall.

It is possible that I felt this same way back when the reissue patents were going on, I don't know.

Revised 2/20/57/26

Q. Do you recall reading a copy of this patent at this time? ¹¹
A. And I said, "You have?" And I said, "The

A. I don't recall. ¹¹ And they said, "Well, I don't"

Q. So you don't have any recollection of having been aware of this section specifically prior to this morning when you found it in the patent? I think,

A. Not during this recent go-round of depositions.

I am quite sure back when I signed the original,

C. oath when this application was submitted to the

A. Patent Department Office, that I was familiar with that part of it. To the extent that I will say

the first time I saw one of these devices on which

C. my ping pong game was played, but which bore no

A. Magnavox nameplate, I was very much shook up and

Q. I think I wrote a memo to Mr. Goulder and probably

A. to Mr. Baer and the Patent Department. I have seen

a lot of slick things and a lot of them I get the

wr , wr
feeling, gee, I wish I had invented that; but when

I saw my ping pong game played out at Salisbury

Beach, I got a feeling of definite annoyance. end

Q. Was that in some coin-operated amusement device?

A. I believe so, it was in the Penny Arcade. Some of my children had been out there and they came back

Punct. w/R 5/27/86

wfo Punctuation

and said, "Gee, Dad, we saw your invention out at Salisbury." And I said, "You have?" And I said, "The Magnavox?" "the Odyssey?" And they said, "Well, I don't remember seeing that." So several weeks later I was out there with them and I made a point of going in and looking at one of these things and I think that did have the double "M" on it, which I have since learned is, I think, Midway Manufacturing.

Q. Do you recall when that was? *(can't remember which)*

A. If the memo I wrote is in any of these exhibits, we could pin it down. *(I don't recall exactly when that was.)*

Q. Was it within the last three or four years?

A. Possibly. *(Whereupon, a recess was taken.)*

Q. You don't recall?

A. I could possibly pin it down to the extent that I believe that I was working for Mr. Goulder at the time, so I forgot when we established that I stopped working in Mr. Baer's group, but I think we did establish that here. That would set one end date or one date. We could look at the company records and find out when Mr. Goulder left the company, that would set the other end date. It was

wfo Punct. 5/27/76

somewhere in that period.

Q. Was it after Magnavox was on the market with the Odyssey game? he said not to answer the question.

A. I believe so, yes, because that is why I asked my boy if he saw the Magnavox label on it.

Q. And was it prior to the time when you were informed that the reissue applications were to be filed?

A. That I don't remember. I don't really remember when either thing happened, so I can't remember which happened first. our attorney or an attorney for Senders Associates, MR. WELSH: at Let's take a recess. appropriate action from your statement.

THE WITNESS: I think I will
(Whereupon, a recess

so state.

was taken.)

MR. WILLIAMS: Then I instruct

Q. Referring to the section in column 17 of the 284

Q. patent which you stated you considered this morning,

was that section called to your attention by someone

Mr. Williams prior to the time you read it?

A. Again I can possibly MR. WILLIAMS: I object to the question, it calls for information protected by the attorney-client privilege and I instruct the witness not to answer. for would reveal the subject

Q. Was it called to your attention by anyone?

MR. ETLINGER: Did you hear what he said, he said not to answer the question.

A. I knew it wouldn't. MR. WILLIAMS: This is a will different question.

With whom?

MR. ETLINGER: Sorry.

A. Let me hear the order. MR. WILLIAMS: Mr. Rusch, if you think the answer to any question might involve divulging subject matter of conversations that you have had with your attorney or an attorney for Sanders Associates, you may so state and we will take appropriate action from your statement.

THE WITNESS: I think I will so state.

Q. When did those discussions begin? MR. WILLIAMS: Then I instruct

A. the witness not to answer the question.

Q. Since your deposition began, have you discussed the matter of the reissue applications and the reasons for them with anyone?

A. Again I can possibly invoke this last statement. I started looking through the figures and I came again.

MR. WILLIAMS: You feel the answer to that question would reveal the subject

matter of conferences that you had with either an attorney for either yourself or with attorneys for Sanders Associates?

A. I guess it wouldn't reveal the content, so I will say yes.

Q. With whom?

A. Let me hear the original question again at this point.

(Whereupon, the previous question was read back by the reporter.)

THE WITNESS: I said yes and then I would say with Mr. Williams and Mr. Seligman.

Q. When did those discussions take place?

A. This morning.

Q. Did you initiate them?

A. Possibly.

Q. Do you know?

A. I do know I requested a copy of the 284 patent. I started browsing through the figures and I came across this Figure 19 which seemed to me rather important, one that I had forgotten after all these

years, and I think at that time I did say, "Gee,
here is a case - - -"

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MR. WILLIAMS: Mr. Rusch, - - -

THE WITNESS: I am sorry.

Q. Would you finish your sentence, please?

MR. WILLIAMS: Mr. Rusch, if you are referring to any communications you had with either Mr. Seligman or myself, I would caution you that you need not state the subject matter of those communications.

THE WITNESS: I will then just answer the question as I remember it the way I did when I said possibly - as to did I initiate the conversation.

Q. Were there any other meetings than the one this morning at which the reissue applications were discussed?

A. Quite probably, yes.

Q. Any this week?

A. I wasn't necessarily limiting it to these meetings that I happen to be attending either, I am sure considerable meetings have taken place on the subject. As far as my being in attendance, no recent

- ones that I know of within this week. (on and claims,"
- Q. I hand you now Exhibit 48 and refer you to the red document, the three-page document bearing the title "Declaration, Power of Attorney and Assent of Assignee" - I guess it is a four-page document. On the third page of that document, is that your signature? (agent oaths and declarations?)
- A. This is the declaration in Exhibit 48?
- Q. Yes. (now to read that declaration in its)
- A. Yes, on this page 3 that you have put in front of me, yes, that is my signature and it appears that I wrote the date. (ion to read this declaration since
- Q. And what is the date? (you signed it up until right
- A. April 22, 1974.
- Q. Do you recall signing that document on that date?
- A. I don't recall so doing, but I would think I probably did. attention to since it had my
- Q. Did you read the document before you signed it?
- A. I believe so. (on looking at my signature, I also
- Q. Do you have any specific recollection of it?
- A. Not exactly, but I usually do read such documents before I sign them. I think I must have read it.
- Q. The document on page 1 in the first paragraph states,

8010000000
8010000000

"I have read the foregoing specification and claims,"
did you read the specification and claims referred
to there? ^{by} my counsel of Sanders' Patent Department

A. I believe so.

Q. Do you have a specific recollection of it or is
your belief based on your usual practice with

A. respect to patent oaths and declarations?

A. It is based on my usual practice. ^{Sanders' Patent}

Q. I ask you now to read that declaration in its
entirety. ^{of said coin-operated television}

A. All right; I have read it.

Q. Have you had occasion to read this declaration since
April 22, 1974, when you signed it up until right
now? ^{frequency and intermediate frequency portions}

A. I don't think so, at least not in the detail that
I just read it. If this was one of the documents
you called my attention to since it had my
signature on it, it is possible and quite probable
that while I was looking at my signature, I also
glanced at some of the words through the document.

Q. I meant before today. "Said coin-operated

A. If this has not come up during this deposition in
here, then I think my answer is no.

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PAGE 61 MISSING w/PC

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2 and 63.

FOUND IT. IT was out
of order. w/PC 5/27/76

A. of the rest of it, I had to rely on counsel of the Sanders Patent Department. beliefs stated therein

Q. Did you rely on counsel of Sanders' Patent Department for the information regarding the exclusive licensee appearing in the second paragraph starting at line 6 to the semicolon in line 10? refer you to

A. Yes, I believe so. desperation again, don't hesitate

Q. Did you also rely on counsel of Sanders' Patent Department for the information following that, "That certain of said coin-operated television games used as a video display device either a ~~sat~~ television monitor or a television receiver intended to receive broadcast television signals with the frequency and intermediate frequency portions thereof biased or disabled"? (Question, the previous question, a lead back question, a writer.)

word "radio" in front of one of those frequencies, that is all. Where it says broadcast television signals with the radio frequency. As I understand this, I think I relied on the Sanders' Legal Department for that sentence, too. If the legal language where it says, "Said coin-operated and television games," if that "said" refers to the coin-operated games of these various manufacturers

This should probably be part of the answer, not part of the question.

W. Rusch

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Page 61 here was
in between 62 and 63.
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Q. At the time you signed the declaration, did you personally have all of the beliefs stated therein or did you rely on counsel as to the truth of all the statements? Various manufacturers were that the exclusive license MR. WILLIAMS: to Mr. Rusch, licensee if the response to that question requires you to go back through the declaration again, don't hesitate to do so. You are not required to remember

Q. go back through the declaration again, don't hesitate to do so. You are not required to remember everything that is in it even though you just read it.

A. I don't think so. THE WITNESS: Please repeat

Q. the questions, it was complete in this form when you first saw it?

(Whereupon, the previous question was read back to MR. WILLIAMS: I object to the question, I don't think that is an accurate characterization by the reporter.)

characterization of his testimony.

THE WITNESS: I will just say it is hard to answer with that word "all" in there.

With considerable of it or at least some of it,

Q. I relied on my own knowledge at least for such obvious things as my name and where I reside and things like that. For a lot of or at least some which states, "Specifically, claims 1-15 and 22-35,

to which the exclusive licensee of such Letters Patent had attempted to grant licenses, then I did rely on Sanders' attorney in that I don't think I knew who these various manufacturers were that the exclusive licensee had attempted to grant licenses to.

Q. Did you have anything to do with the preparation of this declaration? *contain parts - - -*

A. I don't remember. Of just this declaration?

Q. Yes, first word of the fifth line? *Do add "I" to show my words were a part*

A. I don't think so. *MR. WHISH: I meant to include*

Q. In other words, it was complete in this form when you first saw it? *nes," that some of the claims of said Letters Patent* MR. WILLIAMS: I object to the question, I don't think that is an accurate characterization of this testimony.

THE WITNESS: I don't remember that. *I may have seen it in other forms; I don't remember four lines on the next page and the first*

Q. Referring to the last two lines of page 1 of the declaration and the first four lines of page 2, plus the first word of the fifth line on page 2, which states, "Specifically, claims 1-16 and 22-35,

and some of the claims of said Letters Patent quote.

3,659,284 include the terms "television receiver," specifically, claims 17-21 and 48-59;". Did you rely on Sanders Associates' Legal Department for that claim?

the first half of the first line on

page 2, did you rely MR. WILLIAMS: I object to those

the question as vague and I think you stated

A. material covering certain parts - - -

Q. At the time you signed THE WITNESS: at Going down to

A. the first word of the fifth line? ← added "?" to show my words were a question.

I think that is what MR. WELSH: I meant to include before that quoted part, material from the previous 5/27/76 or earlier two lines," that some of the claims of said" Letters Patent 3,659,284 include the terms

"standard television receiver," and then going on with

"the other quote portion. indeed used in those claims,

but I don't recall what MR. WILLIAMS: I think you then

said you were including the language down through

the first four lines on the next page and the first

word on the fifth line" and your quotation stopped

short of "that side ray tube," specifically claims

3, 4 and 7-12, are in MR. WELSH: I see a semicolon

after the part that I did quote that ended in

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17-21 and 48-59, which is where I closed the quote.

So within that portion between the two semicolons including the last three lines of page 1, the last two words of the fourth line from the bottom on page 1 and the first half of the first line on page 2, did you rely on counsel for Sanders for those statements? television receiver, as it says here,

A. At what time was this? our and seven through twelve.

Q. At the time you signed the declaration? I think I

A. I may or may not have relied on them for that.

I think that is something simple enough for me to understand that I may have specifically looked up those claims that were numbered and I think with my limited intelligence I may have checked to see

A. if the term "standard television receiver" and to
"television receiver" was indeed used in those claims,

but I don't recall whether or not I did this. I.e.,

Q. may have respect to the next section which reads,

Q. With respect to the next statement, that the claims which do not recite a "television" but rather terms

recites a "cathode ray tube," specifically claims

3, 14 and 7-12, are indeed adequate to fully protect

our invention because they are otherwise of different

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scope from the claims that recite a "television receiver." Did you rely on counsel from Sanders' Legal Department for the truth of that statement?

A. It is possible that then I may have examined those other claims which were said to recite a cathode ray tube instead of a television receiver or the standard television receiver, as it says here, specifically, three, four and seven through twelve. I may have checked then and then, as now, I think I could understand this well enough to see if they did indeed use that phrase in them. How far down it am I going? It's strictly to television sets which

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Q. To the comma after receiver at the beginning of in line 5, 3,659,284 in Figure 19 and in the text as

(6)
S. 7/15

A. I'd say, then, when I signed this thing, I had to rely on the Sanders' Legal Department as far as whether these claims were adequate or inadequate.

Q. Then with respect to the next section which reads, "That in the context of my invention and in the context of the description thereof in said Letters Patent 3,659,284, I have always understood and believed 'television receiver' and 'standard television receiver' to mean any cathode ray tube"

display incorporating circuitry for a raster type scan." At the time you signed the declaration, did you personally believe the truth of that statement or did you rely on counsel for Sanders? the

A. I would say both. Then as now where it says in the context of my invention and in the context of the description thereof in Patent 3,659,284, I still get somewhat confused over what all these words mean, but in the context of my invention, I think as I have pointed out this morning or this afternoon by referring to it this morning, I did not intend that that be limited strictly to television sets which had an RF front end and I think it shows in that in Patent 3,659,284 in Figure 19 and in the text as we have said, "Whereas such television receivers with an intended application,: and I agree with you, you asked me a question on this before, it was a major intent of the application, but definitely I do not consider and I did not consider that it was an exclusive thing. I still feel that way and if these words here mean what I just said, then I will say I could rely mostly on my own belief now and then. To the extent that I wanted

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them to say that, I relied on the attorneys here at Sanders to put that in the proper language for such a document. in people's living rooms, but I

Q. At the time the original application for the 284 patent was filed in May of 1969, did you understand and believe that the terms "television receiver" and "standard television receiver" included cathode ray tube displays incorporating circuitry ^{ed w/e} for a raster type scan, but not having an RF section? television set as one
MR. WILLIAMS: If I object to the question, you have quoted part of the statement in and the declaration, but you have omitted a very significant portion of it. I certainly intended that this device be not re

THE WITNESS: If I am to have an answer to that, would you repeat it?

Q. Apart from the context of the inventions, did you (Whereupon, the previous) at the time that the original application was filed question was read back in May, 1969, understand and believe the terms by the reporter.)

television receiver and standard television receiver included TV monitors

THE WITNESS: I want to answer this carefully, I believe I answered a question

A. somewhat similar to this earlier in this deposition.

A. I would say not in the context of this invention.

I probably had the same picture in my mind of a TV set as most laymen do, specifically the kinds that sit around in people's living rooms, but I will say having reread this oath here rather carefully, that to me the very important phrase is, "That in the context of my invention," and I did believe and I still believe that at least the intent of the invention as I saw it was that it was not restrictive to the layman's concept of a television set as one having an RF front end. I again think I tried to show that in this Figure 19 and I still feel, regardless of the semantics, that this device be not restricted to display units having an RF front end. You have effectively asked the question, apart from the context of the inventions, did you at the time that the original application was filed in May, 1969, understand and believe the terms television receiver and standard television receiver included TV monitors without RF sections?

A. You say apart from the context of this invention?

Q. Yes, at that, please?

A. Probably not. Again apart from this concept of the

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misquote

invention, I would use what I refer to as the layman's concept.. question was read back

Q. At the time that the application was filed, did the terms television receiver and standard television receiver, to you, have any meaning different than the layman's concept? words.

A. Again I think I would say in the context of this invention, yes. the filing of the application that

Q. So that the terms as used in the patent did not refer to the layman's concept? a patent meant

A. I don't know better than what a layman thought?

Q. Did you understand at that time that the terms had any meaning different than the layman's concept?

and mischaracterizing MR. WILLIAMS: I object to the question. I think you have effectively asked the same question over and over again.

MR. WELSH: No, this is whether (whereupon, the previous he understood that or not.)

question was read back
MR. WILLIAMS: I have heard
(by the reporter.)
the question, my objection still stands.

THE WITNESS: Would you call,

Q. repeat that, please? Question, do you still subscribe to all of the statements therein as being true or

are there any statements (Whereupon, the previous
any difficulty? question was read back

A. I think I will answer by the reporter.) that
question by reaffirming THE WITNESS: I would say
certainly insofar as intent goes, yes. Maybe it
was a poor choice of words.

Q. { Are you saying that you had a conscious understanding
at the time of the filing of the application that
the terms standard television receiver and
television receiver used in the patent meant
something other than what a layman thought?

the second part of your MR. WILLIAMS: I object to
the question, I think you are harassing the witness
and mischaracterizing his testimony.

THE WITNESS: Would you please
repeat that question?

this part I don't understand completely and I am
(Whereupon, the previous

still dependent upon the attorney's notes.
question was read back

Q. Would you refer to what part you were just referring
by the reporter.)

to? I don't know what part I am referring to.

A. As being confusing to THE WITNESS: I don't recall.

Q. Having reread the declaration, do you still subscribe

Q. to all of the statements therein as being true or

A. are there any statements with which you have first
any difficulty?

A. I think I will answer the first part of that question by reaffirming the portion of the oath which I signed on page 3 of that declaration.

I say, I declare still and believe at that time that

"all statements made of my own knowledge" were and are true and that "all statements made on information and belief, which I assume to mean things specifically that I have been told by the Sanders attorneys and Mr. Williams," are believed to be true. To answer the second part of your question, yes, there is still a considerable part of this declaration that confuses me a little bit. I wish I had my red pencil and could write "speak English" on the side of it like I did at times to Mr. Seligman. For this part I don't understand completely and I am still dependent upon the attorneys here.

Q. Would you refer to what part you were just referring to? my mind to make them at least a part owner in

A. As being confusing perhaps or that I don't actually understand? I'm not pretending to understand that

Q. Yes. At the time I signed this, and now, I

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misspelling
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A. Well, for example, in the third line of the first page of this thing where it says, "That I will prior to allowance of this reissue application, surrender original United States Letters Patent 3,659,284" and I thought I had surrendered that at some time before I ever signed this thing. I didn't know it was contingent upon signing this thing. That is even confusing to me. In fact, when I signed my employment agreement with Sanders years ago, which probably surrendered this thing long before it was ever conceived! Now, the fact that Sanders then Associates is a Delaware corporation is not really confusing to me, but I am not sure I knew that.

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before, having seen them in Nashua, New Hampshire, for many years. There may be some question where it says that Sanders Associates is now the sole owner to this Letters Patent; I don't know if now by then whether Magnavox had bought the rights to this thing or not, which, if they had, would seem in my mind to make them at least a part owner in the whole deal, but again that is part of the legal thing and I am not pretending to understand that thoroughly. At the time I signed this, and now, I

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think I understood and do understand now what a ~~just~~
reissue patent is. I doubt that I knew what that
meant at all before someone told me back then.

Again, of my own knowledge, I had no way of knowing
whether "said Letters Patent 3,659,284, was partly
inoperative by reason of a defective specification."

Someone told me that and I trusted them and believed
in them. Why claims 3, 4 and 7-12 are inadequate

Q. I think you were addressing yourself to parts which
you did not understand. Scope from the claims that

A. Yes. Well, I still stick with what I said then
and now, I don't really know why it was partly
inoperative by reason of a defective specification.

I know what it intended to do and if these words ever
don't cover that, I don't know enough to make them
do it, but I wanted them to do it. Are we talking
about at the time that I signed this or right now
or both, or doesn't it matter?

Q. We are talking about right now. Assigned or disabled?"

A. Now I think I understand what an assignee and a
licensee means. I believe the first being Sanders
and the second being Magnavox, but there was a
time I had to ask what that meant. I think I am

still as much confused as the rest of you as to just what anyone means now by "standard television receiver," "television receiver" and "cathode ray tube." } Punct. WFO

Punct.
WR
5/27/76 → I am not confused in what I intended it to mean or at least what I intended the 284 patent to mean in that respect, but I am confused at this time over all these words. I am not sure I understand thoroughly why claims 3, 4 and 7-12 are inadequate to fully protect the invention because they are otherwise a different scope from the claims that nish recite "television receiver." I am confused as to why "some manufacturers of coin-operated television games" "can't" take the position that the term standard television receiver and television receiver do not, and I emphasize the not, "include either a television monitor or a television broadcast receiver intended to receive broadcast television signals, but with the radio frequency and intermediate frequency portions thereof bypassed or disabled."

Would you read that last lengthy thing back? Should

I go back and read them and make sure I understand

(Whereupon, the previous

them or say whether I had to trust the lawyers at

answer was read back

that time?

Q. If you rely on counsel by the reporter.) have with
respect to other than THE WITNESS: And yet, in my mind at least, there can be confusion as to whether the same phrases, in my patent 284, had to be that restricted to television sets with RF stages. If that doesn't make any sense, it shows that I am ^{were} ^{presently} still confused.

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Q. Mr. Rusch, could you possibly just indicate the portions that you don't understand without going into the reasons because I'd like to have you finish at least the answer to this question before we break

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now today and we are past the four-thirty time we have

indicated we were going to stop at? Use me. It is I am not sure I fully understand personally what color of claim of noninfringement means. I think that is the major portion of them.

Q. Are there any other portions? That completes this

A. We are referring specifically to the phrases or sentences in this declaration, is that correct, such as where it mentioned claims 25 and 51; should I go back and read them and make sure I understand them or say whether I had to trust the lawyers at

that time?

John L. Rusch
Deponent 5/29/76

* This info. corrected to fit that covered by note in depo 8, p. 47

Q. If you rely on counsel, you stated you have with
respect to other statements regarding claims; if
that is what you did with respect to these, then
I think it would be appropriate just to say that.

MR. WILLIAMS: The question
was asked, of the statements as to which he presently
doubts.

Justice of the Peace and/or
Ontario Public

MR. WELSH: That is right.

THE WITNESS: I will just say
like when I come to this part on page 2 where it
mentioned claims 25 and 51, right at this moment
^{now}
I am ~~not~~ reading them. I think again that I have
covered most of the things that confuse me. It is
quite probable if we delved into this further,
that I might find other things that confuse me, but
I think that was the most of them.

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MR. WELSH: That completes this
session of Mr. Rusch's deposition.

(Whereupon, the deposition in the above-entitled
matter was continued at 4:40 p.m.)

William T. Rusch *
Deponent 5/28/76

* This depo. corrected to
extent covered by note in depo 8, p. 47

THE STATE OF NEW HAMPSHIRE) 18-13
COUNTY OF Hillsborough)) SS.

Subscribed and sworn to before me this 28

day of May 1976.

Date of N. H. Purch. of 4-22-76
VIRGINIA J. MURPHY, Notary Public

Notary Public No. 1983, "com
Virginia Murphy
My Commission Expires September 26, 1979

Justice of the Peace and/or
Notary Public ^{status}
and located at office
of Gloucester-Staff Parish on R-2327
Date 1, 3/27/79.

Draft specification of 3777162
(apparently original of which
part of Exhibit A was copied.)

EXHIBITS

<u>No.</u>	<u>Page</u>	<u>Description</u>
51	3	Oath of W. T. Rusch of 5-15-69.
52	3	Oath of W. T. Rusch of 4-24-69.
53	24	Memo of July 29, 1969, from Seligman to Baer, Rusch and Harrison.
54	24	Television Gaming Apparatus and Method (abstract of the disclosure). DRAFT RIS: sm D-2837 page 1, 5/27/69.
55	28	Draft specification of 5/27/69 (apparently original of which part of Exhibit 54 was copied.)